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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,627	08/14/2006	Hiroshi Aoki	053168	5421

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
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EXAMINER

PETTITT, JOHN F

ART UNIT	PAPER NUMBER
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3744

NOTIFICATION DATE	DELIVERY MODE
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12/10/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentmail@whda.com

Office Action Summary	Application No. 10/550,627	Applicant(s) AOKI ET AL.	
	Examiner John F. Pettitt	Art Unit 3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. **Claims 1-8** are rejected under 35 U.S.C. 102(e) as being anticipated by Gulliard et al. (US 6,319,303) hereafter Guillard.

In regard to claim 1, Guillard teaches an air separator (Fig. 2 and/or Fig. 5), comprising: an air compression means (column 2, lines 54-55, hereafter C1) for taking in air from the outside and compressing the air at a low pressure, an oxygen concentrating means (5B) for concentrating oxygen gas that is contained in the air compressed by the air compression means (C1), an oxygen/air compression means (38) for further compressing oxygen-rich compressed air passed through the oxygen concentrating means (5B), a heat exchanger (main heat exchange line, column 2, line 55) for cooling oxygen-rich compressed air passed through the oxygen/air compression means (38), and a rectification tower (distillation apparatus, column 2, line 57) for taking out oxygen gas by separating the oxygen-rich compressed air (Y) passed through the

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heat exchanger so as to be cooled to a low temperature by utilizing differences in boiling points of elemental gases, wherein the air compression means (C1), the oxygen concentrating means (5B) and the oxygen/air compression means (38) are arranged in one line (in series) and a total amount of the compressed air compressed by the air compression means (C1) is supplied to the oxygen/air compression means (38).

In regard to claim 2, Guillard teaches that the oxygen concentrating means (5B) is an adsorption tower containing an adsorbent for adsorbing nitrogen gas in the compressed air, the adsorbent capable of also adsorbing moisture in the compressed air (column 2, lines 65- column 3, line 12).

In regard to claims 3-4, Guillard teaches elimination means (6B) for eliminating impurities in the oxygen-rich compressed air between the oxygen/air compression means (38) and the heat exchanger (main heat exchange line).

In regard to claim 5-7, and 8, Guillard teaches a part of the air compressed by the air compression means (C1) is not passed through the oxygen concentrating means (5B), but is directly supplied to an inlet path (line into 38) for introducing the oxygen-rich compressed air passed through the oxygen concentrating means (5B) into the oxygen/air compression means (38).

Response to Arguments

3. Applicant's arguments filed 09/11/2009 have been fully considered but they are not persuasive.

1. Applicant's arguments (page 6, ¶ 1) are that a total amount of air compressed by the air compression means (C1) of Karwat is not supplied to compression means

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(40). In response to the applicant's arguments, the examiner agrees and withdraws said rejection.

2. Applicant's arguments (page 7, ¶ 2) are that the adsorbers of Guillard are not capable of adsorbing nitrogen. In response to the applicant's arguments, the examiner disagrees and notes that the disclosed adsorbers of Guillard are inherently capable of adsorbing some nitrogen being as they comprise alumina and a molecular sieve capable of adsorbing CO₂ (demonstrated by Maki et al. US 4,113,839; column 6, lines 65-67). Therefore the argument is unpersuasive.

Conclusion

4. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John F. Pettitt whose telephone number is 571-272-0771. The examiner can normally be reached on M-F 8a-4p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler or Frantz Jules can be reached on 571-272-4834 or 571-272-6681. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John F Pettitt /
Examiner, Art Unit 3744

/Cheryl J. Tyler/
Supervisory Patent Examiner, Art
Unit 3744

JFP III
December 4, 2009